

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEBRASKA**

**MADGE HEYEN,**

**Plaintiff,**

**V.**

**JO ANNE B. BARNHART, Commissioner of  
the Social Security Administration,**

**Defendant.**

**CIVIL NO. 4:06CV3274**

## ORDER

Considering the defendant's Motion to Remand [8], the brief in support thereof [9], and the plaintiff's response thereto [10],

**IT IS ORDERED** that the Motion [8] is granted. This matter is remanded to the Commissioner in accord with sentence six of section 205(g), 42 U.S.C. § 405(g)<sup>1</sup> for a *de novo* hearing before an Administrative Law Judge. The Administrative Law Judge shall conduct a *de novo* hearing and issue a new decision. Plaintiff shall be afforded the opportunity to appear and present new evidence at the hearing.

**DATED February 6, 2007.**

**BY THE COURT:**

**s/ F.A. Gossett**  
**United States Magistrate Judge**

<sup>1</sup>The sentence provides:

The court may, on motion of the Commissioner of Social Security made for good cause shown before the Commissioner files the Commissioner's answer, remand the case to the Commissioner of Social Security for further action by the Commissioner of Social Security, and it may at any time order additional evidence to be taken before the Commissioner of Social Security, but only upon a showing that there is new evidence which is material and that there is good cause for the failure to incorporate such evidence into the record in a prior proceeding; and the Commissioner of Social Security shall, after the case is remanded, and after hearing such additional evidence if so ordered, modify or affirm the Commissioner's findings of fact or the Commissioner's decision, or both, and shall file with the court any such additional and modified findings of fact and decision, and, in any case in which the Commissioner has not made a decision fully favorable to the individual, a transcript of the additional record and testimony upon which the Commissioner's action in modifying or affirming was based.